

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOMINIQUE OLIVE

Case No. 19-10340

Plaintiff,
v.

Stephanie Dawkins Davis
United States District Judge

DAVID RONALD WILKERSON, *et*
al,

Defendants.

**OPINION AND ORDER ACCEPTING REPORT AND
RECOMMENDATION (ECF No. 47),
AS MODIFIED (ECF No. 50) AND DECLINING TO DISMISS**

Currently before the Court is Magistrate Judge Elizabeth A. Stafford's June 30, 2020 Report and Recommendation as modified. (ECF Nos. 47, 50).

Magistrate Judge Stafford recommended dismissing the complaint with prejudice for failure to prosecute. The address then on file with the court is the address to which all documents, including the report and recommendation, were sent. The report and recommendation was returned as undeliverable. (ECF No. 49).

Plaintiff Dominique Olive apparently provided the incorrect address to the court. (ECF No. 25). After the report and recommendation was filed and mailed to Olive at the address provided, the court learned that Olive contacted the court to correct the error in the address on file with the court. However, Olive did not follow up by

filing a written notice of change of address with the court to correct the error – a step that is required to effectively change a party’s address with the court under Local Rule 11.2. Accordingly, in light of his previous overtures to update his address, efforts about which the magistrate judge was unaware when she issued her report and recommendation, the court modified the report and recommendation to allow Olive the option to update his address of record to avoid dismissal. (ECF No. 50). In the meantime, the court also held the Magistrate Judge’s recommendation in abeyance. *Id.* Since then, Olive has updated his address and thus satisfied the condition set by the court in its modification order. Accordingly, the court **DECLINES TO ADOPT** the magistrate judge’s original recommendation for dismissal but **ACCEPTS** the report as modified by ECF No. 50. As such, this matter may proceed on the merits and remains referred to the magistrate judge for all pretrial proceedings. (ECF No. 34).

IT IS SO ORDERED.

Date: October 30, 2020

s/Stephanie Dawkins Davis
Stephanie Dawkins Davis
United States District Judge

CERTIFICATE OF SERVICE

I certify that on October 30, 2020, I filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to all counsel of record and I mailed by United States Postal Service to the following non-ECF participant: Dominique Olive, #434548, Oakland County Jail, P.O. Box 436017, Pontiac, MI 48341 and Dominique Olive, 385 Firwood Street, Ypsilanti, MI 48197.

s/Tammy Hallwood

Case Manager

(810) 341-7887

tammy_hallwood@mied.uscourts.gov